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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,809	05/12/2005	Paulus Henricus Antonius Dillen	NL 021129	5612
24737 7590 02/14/2008 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			EXAMINER SHELEHEDA, JAMES R	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 02/14/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/534,809

Applicant(s)

DILLEN, PAULUS HENRICUS  
ANTONIUS

Examiner

James Sheleheda

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 3 is objected to because of the following informalities:

In claim 3, line 2, "presentation controller (119)" should be changed to -- presentation controller (121)-- to match the corresponding reference number within the drawings and specification.. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 21 and 22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claimed computer program, of claim 21, consists solely of Functional Descriptive Material. Such "descriptive material" is not a process, machine, manufacture or composition of matter. Computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other

claimed elements of a computer which permit the computer program's functionality to be realized.

The claimed "record carrier comprising a computer program", of claim 22, consists solely of Functional Descriptive Material. Such "descriptive material" is not a process, machine, manufacture or composition of matter. Computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized.

The "record carrier" is not specifically disclosed or defined in any way, and thus is non-statutory as opposed to a computer-readable medium encoded with a computer program defining structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized.

See MPEP § 2106.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4, 7-9, 16 and 18-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Sampsell (6,219,839).

As to claim 1, Sampsell discloses an apparatus for content selection (12), comprising:

a receiver for receiving content items from a plurality of sources (Fig. 1; column 4, lines 4-16) including real-time content sources (cable, satellite; Fig. 1; column 4, lines 4-16) and content item storage sources (DVD, VCR; Fig. 1; column 4, lines 4-16);

a presentation processor for presenting a content set indication of available content items from said plurality of sources (ERG combining program lists of all of the available sources; Fig. 3 and 9; column 5, lines 21-39 and column 7, lines 9-22 and lines 54-65) wherein said content set indication comprises a parameter indicating an earliest time of availability of each content item (indicating the earliest availability of each program on the time axis; see Fig. 3 and 9); and

a selection processor for selecting a content item from said content set indication of available content (tuning to the selected program; column 5, lines 11-20).

As to claim 2, Sampsell discloses a presentation controller (121) for presenting the selected content item to a user (selecting and outputting the selected video to the display; column 4, lines 4-11, lines 45-48 and column 5, lines 11-20).

As to claim 3, Sampsell discloses wherein the presentation controller is operable to present a selected content item having a previous earliest time of availability from a beginning of the selected content item (recording and playing back a program which was previously broadcast; column 7, lines 23-45).

As to claim 4, Sampsell discloses a content item storage for storing content items (VCRs and DVD; Fig. 1; column 7, lines 38-45) from the real-time content sources (column 7, lines 23-45), and wherein the selected content item is from a first of the plurality of real-time content sources (DBS; column 7, lines 23-45) and the presentation controller is operable to present the selected content item having a previous earliest time of availability (previously broadcast content now recorded; column 7, lines 23-45) from a beginning of the selected content item by retrieving the selected content item from the content item storage (Fig. 9-10; listing the recorded content within the guide for user selection and display; column 7, lines 23-45).

As to claim 7, Sampsell discloses wherein the content set indication further comprises a parameter associated with a latest time of availability of each content item (indicating when the broadcast ends and the content is no longer available; see Fig. 3-9).

As to claim 8, Sampsell discloses an input processor for receiving a user input (user input; column 5, lines 11-20 and column 7, lines 38-45) associated with the latest

time of availability (column 5, lines 11-20 and column 7, lines 33-38) and for modifying a time of availability of the content item in response to said user input (recording the programming and making it available at a later time; column 7, lines 23-45).

As to claim 9, Sampsell discloses a recording controller for instigating a recording of a content item in response to modifying the latest time of availability (recording the user selected program; column 7, lines 23-45).

As to claim 16, Sampsell discloses an input processor for receiving a user input (user input; column 5, lines 11-20 and column 7, lines 38-45) and for modifying a time of availability of the content item to a modified time of availability in response to said user input (recording the programming and making it available at a later time; column 7, lines 23-45); and

a communication element for communicating the modified time of availability to at least one of the plurality of sources (control signal to the VCR to record the content for later display; column 7, lines 23-45).

As to claim 18, Sampsell discloses wherein the content set indication comprises an independent indication of whether a content item is currently available (wherein the indication for any particular program is independent of the other programming; Fig. 3-9; column 5, lines 21-39).

As to claim 19, Sampsell discloses a method of content selection (Fig. 3), comprising:

receiving content items from a plurality of sources (Fig. 1; column 4, lines 4-16) including real-time content sources (cable, satellite; Fig. 1; column 4, lines 4-16) and content item storage sources (DVD, VCR; Fig. 1; column 4, lines 4-16);

presenting a content set indication of available content items from said plurality of sources (ERG combining program lists of all of the available sources; Fig. 3 and 9; column 5, lines 21-39 and column 7, lines 9-22 and lines 54-65), wherein said content set indication comprises a parameter indicating an earliest time of availability of each content item (indicating the earliest availability of each program on the time axis; see Fig. 3 and 9); and

selecting a content item from said content set indication of available content (tuning to the selected program; column 5, lines 11-20).

As to claim 20, Sampsell discloses

receiving a user input (user input; column 5, lines 11-20 and column 7, lines 38-45);

modifying a time of availability of the content item to a modified time of availability in response to said user input (recording the programming and making it available at a later time; column 7, lines 23-45);



communicating the modified time of availability to a first of the plurality of sources (control signal to the VCR to record the content for later display; column 7, lines 23-45); and

receiving the content item from the first of the plurality of sources at a time corresponding to the modified time of availability (playback of the recorded program at a later time; column 7, lines 23-45).

As to claim 21, Sampsell discloses a computer program enabling a method (column 4, lines 5-10 and column 5, lines 60-62) to be carried out according to claim 19 (see the rejection of claim 19 above).

As to claim 22, Sampsell discloses a record carrier comprising a computer program as claimed in claim 21 (storing the program software; column 4, lines 5-10 and column 5, lines 60-62) as claimed in claim 21 (see the rejection of claim 21 above).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 11, 14 and 15 are rejected under 35 U.S.C. 103(a) as being obvious over Sampsell in view of Lemmons et al. (Lemmons) (US 2001/0013126 A1).

As to claim 11, while Sampsell discloses wherein the content items of the content set are arranged, he fails to specifically disclose wherein the content items are arranged in response to the latest time of availability.

In an analogous art, Lemmons discloses a system for content selection (see Fig. 7) wherein available content items are arranged in response to the latest time of availability (sorted based upon their respective telecast times; paragraphs 82 and 85) for the typical benefit of allowing users to more easily locate programs of interest (paragraph 1).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Sampsell's system to include wherein the content items are arranged in response to the latest time of availability, as taught by combination with Lemmons, for the typical benefit of allowing a user to more easily locate programs of interest.

As to claim 14, while Sampsell discloses wherein the content items of the content set are arranged, he fails to specifically disclose wherein the content items are arranged in response to the earliest time of availability.

In an analogous art, Lemmons discloses a system for content selection (see Fig. 7) wherein available content items are arranged in response to the earliest time of availability (sorted based upon their respective telecast times; paragraphs 82 and 85) for the typical benefit of allowing users to more easily locate programs of interest (paragraph 1).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Sampsell's system to include wherein the content items are arranged in response to the earliest time of availability, as taught by combination with Lemmons, for the typical benefit of allowing a user to more easily locate programs of interest.

As to claim 15, while Sampsell discloses wherein the content items of the content set are arranged, he fails to specifically disclose wherein the content items are arranged in response to at least a title of the content item.

In an analogous art, Lemmons discloses a system for content selection (see Fig. 7) wherein available content items are arranged alphabetically in response to the content titles (paragraphs 82 and 85) for the typical benefit of allowing users to more easily locate programs of interest (paragraph 1).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Sampsell's system to include wherein the content items are arranged in response to at least a title of the content item, as taught by combination with Lemmons, for the typical benefit of allowing a user to more easily locate programs of interest.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being obvious over Sampsell in view of Broadus (7,203,952).

As to claim 6, while Sampsell discloses wherein the presentation processor is operable to indicate an earliest time of availability of each content item, he fails to specifically disclose updating the parameter in response to a current time.

In an analogous art, Broadus discloses a system for content selection (see Fig. 1 and 5) wherein the available time of each content item is updated in response to the current time (wherein the current time is listed across the axis indicating the programming currently broadcast and available; see Fig. 5 and column 8, line 3-34) for the typical benefit of allowing users to immediately determine the completion status of the plurality of programs (column 8, lines 28-33 and column 1, lines 30-45).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Sampsell's system to include updating the parameter in response to a current time, as taught by combination with Broadus, for the typical benefit of allowing users to immediately determine the completion status of the plurality of programs.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being obvious over Sampsell in view of Klosterman (5,550,576).

As to claim 5, while Sampsell discloses content set indications for a plurality of content sources, he fails to specifically disclose wherein the content set indication comprises no indication of a content source of content items.

In an analogous art, Klosterman discloses a system for content selection (see Fig. 2) wherein content items from a plurality of sources are displayed in a content set

(Fig. 2; column 3, lines 27-47 and column 6, lines 15-33) and the content set indication comprises no indication of a content source of content items (see Fig. 2; column 7, lines 11-12) for the typical benefit of providing users with a simplified program guide for data from multiple sources in an organized fashion (column 2, lines 23-32 and column 3, lines 2-9).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Sampsell's system to include wherein the content set indication comprises no indication of a content source of content items, as taught by combination with Klosterman, for the typical benefit of providing users with a simplified program guide for data from multiple sources in an organized fashion.

10. Claims 10 and 17 are rejected under 35 U.S.C. 103(a) as being obvious over Sampsell in view of Haddad (5,555,441).

As to claim 10, while Sampsell discloses stored content items, he fails to specifically disclose wherein a stored content item is removed from the content item storage at the time of the latest time of availability for the stored content item.

In an analogous art, Haddad discloses a system for providing content (column 12, lines 41-62) wherein a stored content item is removed from the content item storage at the time of the latest time of availability for the stored content item (deleted expired content; column 14, lines 1-20) for the typical benefit of freeing up storage space by removing content which is no longer available for viewing (column 14, lines 1-20).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Sampsell's system to include wherein a stored content item is removed from the content item storage at the time of the latest time of availability for the stored content item, as taught by combination with Haddad, for the typical benefit of freeing up storage space by removing content which is no longer available for viewing

As to claim 17, while Sampsell discloses content items, he fails to specifically disclose modifying the cost of the content item in response to the modified time of availability.

In an analogous art, Haddad discloses a system for providing content (column 12, lines 41-62) wherein pricing strategies are utilized to provide content at different prices at different times (column 2, line 57-column 3, line 5) to encourage distribution during off-peak hours (column 3, lines 1-5) for the typical benefit of more efficiently utilizing the system hardware by encourage more subscribers to utilize the system off-peak (column 3, lines 1-5).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Sampsell's system to include modifying the cost of the content item in response to the modified time of availability, as taught by combination with Haddad, for the typical benefit of more efficiently utilizing the system hardware by encourage more subscribers to utilize the system off-peak.

11. Claim 12 is rejected under 35 U.S.C. 103(a) as being obvious over Sampsell in view of Chaney et al. (Chaney) (5,515,106).

As to claim 12, while Sampsell discloses a content set indication, he fails to specifically disclose a parameter associated with a cost of at least some of the content items.

In an analogous art, Chaney discloses a system for providing content (column 2, lines 13-38) wherein the displayed program information includes the cost of pay per view items (column 1, lines 55-65) for the typical benefit of providing viewers with information of interest (column 1, lines 55-65).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Sampsell's system to include a parameter associated with a cost of at least some of the content items, as taught by combination with Chaney, for the typical benefit of providing viewers with information of interest.

12. Claim 13 is rejected under 35 U.S.C. 103(a) as being obvious over Sampsell in view of Morrison (5,900,915).

As to claim 13, while Sampsell discloses a content set indication, he fails to specifically disclose a parameter associated with a quality of at least some of the content items.

In an analogous art, Morrison discloses a system for providing content (Fig. 2; column 2, lines 18-28) wherein the displayed program information includes a quality of at least some of the content items (identifying High Def. And Standard Def. Content;

Fig. 2, column 2, lines 30-40 and column 3, lines 50-65) for the typical benefit of providing a program guide which allows users to differentiate between standard and high definition format programming in a non-confusing manner (column 2, lines 1-40).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Sampsell's system to include a parameter associated with a quality of at least some of the content items, as taught by combination with Morrison, for the typical benefit of providing a program guide which allows users to differentiate between standard and high definition format programming in a non-confusing manner.

### ***Conclusion***

13. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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Application/Control Number:  
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Art Unit: 2623

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### **Certificate of Transmission**

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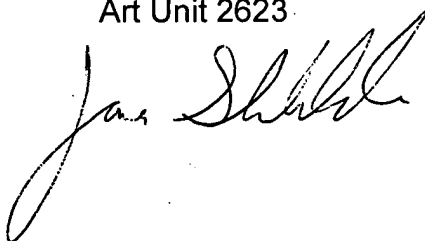
Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sheleheda whose telephone number is (571) 272-7357. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

James Sheleheda  
Patent Examiner  
Art Unit 2623

A handwritten signature in black ink, appearing to read 'James Sheleheda', written in a cursive style.

JS